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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re: NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION	MDL Dkt. No. 06-1791-VRW **JOINT STIPULATION REGARDING AT&T INC. & BELLSOUTH CORP.'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION; [PROPOSED] ORDER** Date: June 3, 2009 Time: 10:30 a.m. Courtroom: 6, 17th Floor Judge: Hon. Vaughn R. Walker
This Document Relates To: *McMurray v. Verizon Communications, Inc., et al.*, No. 09-cv-0131-VRW	

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RECITALS

A. AT&T Defendants have filed two motions to dismiss plaintiffs' Complaint (Dkt. 1), both of which currently are pending.

B. On March 16, 2009, telecommunication carrier defendants, including AT&T Inc. and BellSouth Corporation, moved to dismiss the plaintiffs' Complaint for failure to state a claim upon which relief can be granted. *See* Mot. to Dismiss under Fed. R. Civ. P. 12(b)(6) (Dkt. 588). That same day, Specially Appearing Defendants AT&T Inc. and BellSouth Corporation moved to dismiss the plaintiffs' Complaint for lack of personal jurisdiction. *See* Mot. to Dismiss Under Fed. R. Civ. P. 12(b)(2) (Dkt. 584).

C. Both motions are currently scheduled to be heard on June 3, 2009. This stipulation concerns the latter motion, Docket Item No. 584.

D. On May 7, 2009, plaintiffs filed a "Response to AT&T Inc. and BellSouth Corporations' Motion to Dismiss for Lack of Jurisdiction" (Dkt. 613). In it, they principally argued that, just as this Court "administratively terminated" without prejudice other motions to dismiss for lack of personal jurisdiction that previously were filed in this MDL (Dkt. 379), the Court should take similar action here.

STIPULATION

Plaintiffs and Specially Appearing Defendants hereby stipulate as follows:

A. In order to promote the efficient handling of this matter, the parties have agreed they do not object to the Court taking the pending motion to dismiss for lack of personal jurisdiction (Dkt. 584) off of the Court's argument calendar and deferring a decision on it.

B. The parties further agree that by reaching this agreement AT&T Inc. and BellSouth Corporation have not waived their personal jurisdiction objections, that any delay in deciding the personal jurisdiction motion as a result of this agreement shall not be asserted or held to prejudice those objections, and that by reaching this agreement no party has waived any argument presented in the briefing in connection with the pending motion to dismiss for lack of personal jurisdiction. In addition, because of the filing of this stipulation AT&T Inc. and BellSouth Corporation have not filed their reply brief in support of their motion to dismiss, and the parties agree that AT&T Inc. and BellSouth Corporation retain their right to do so when the motion is restored to this Court's argument calendar.

D. The parties further agree that by reaching this agreement, plaintiffs have not waived whatever rights to amend their complaints to add additional or substitute parties in the future that they otherwise would have, and that delay in deciding the personal jurisdictional motion as a result of this agreement shall not be asserted or held to prejudice any such amendments.

E. The parties undertake that, if any party subsequently concludes that it is no longer appropriate to defer resolution of the motion to dismiss, that party will promptly notify the other parties and then the Court.

Respectfully submitted,

Dated: May 13, 2009

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DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, Marc H. Axelbaum, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from the signatories listed above.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on May 13, 2009, at San Francisco, California.

By: /s/ Marc H. Axelbaum
Marc H. Axelbaum

Attorney for Specially Appearing Defendants AT&T Inc. and BellSouth Corporation

[PROPOSED] ORDER

Pursuant to the foregoing Stipulation, and good cause appearing, the Court ORDERS the following:

A. The motion of Specially Appearing Defendants AT&T Inc. and BellSouth Corporation to dismiss for lack of personal jurisdiction (Dkt. 584) is hereby taken off of the Court's June 3, 2009 argument calendar.

B. If any party subsequently concludes that it is no longer appropriate to defer resolution of the motion to dismiss, that party will promptly notify the other parties and then the Court.

C. By reaching the foregoing Stipulation:

(1) Specially Appearing Defendants AT&T Inc. and BellSouth Corporation have not waived their personal jurisdiction objections;

(2) any delay in deciding the personal jurisdiction motion as a result of the foregoing Stipulation shall not be asserted or held to prejudice those objections;

(3) no party has waived any argument presented in the briefing in connection with the pending motion;

(4) Specially Appearing Defendants AT&T Inc. and BellSouth Corporation retain their right to file a reply brief in support of the motion if and when it is re-stored to this Court's argument calendar;

(5) Plaintiffs have not waived whatever rights to amend their complaints to add additional or substitute parties in the future that they otherwise would have; and

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(6) any delay in deciding the personal jurisdictional motion as a result of the foregoing Stipulation shall not be asserted or held to prejudice any such amendments.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: ____________, 2009.

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Hon. Vaughn R. Walker
United States District Chief Judge